

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

<b>UNITED HEALTHCARE SERVICES, INC.,</b>	:	
	:	
<b>Plaintiff,</b>	:	<b>CIVIL ACTION</b>
	:	
	:	
<b>v.</b>	:	<b>No. 17-555</b>
	:	
<b>CEPHALON, INC.,</b>	:	
	:	
<b>Defendants.</b>	:	

**ORDER**

**AND NOW**, this 8<sup>th</sup> day of July, 2019, upon consideration of the Motion by Defendants Sun Pharmaceutical Industries, Ltd., Ranbaxy Laboratories, Ltd., and Ranbaxy Pharmaceuticals, Inc. (collectively, “Ranbaxy”) to Preclude Plaintiff United Healthcare Services, Inc. (“UHS”) from Asserting New Experts, New Expert Opinions, and New Legal Theories at this Late Stage of the Case (Doc. No. 189), UHS’s Response (Doc. No. 190), Ranbaxy’s Reply (Doc. No. 194), UHS’s Proffer of Expert Testimony (Doc. No. 228), Ranbaxy’s Supplemental Brief (Doc. No. 233), Defendant Mylan Pharmaceuticals, Inc.’s (“Mylan”) Supplement Brief (Doc. No. 235), UHS’s Supplemental Memorandum in Opposition (Doc. No. 234), and Ranbaxy’s Response to Correct the Record (Doc. No. 237), and following an oral argument, it is hereby **ORDERED** that the Motion is **GRANTED IN PART** and **DENIED IN PART**, as follows:

1. The testimony of Dr. Rena Conti regarding causation and the potential generic entry date is excluded. Subject to other objections, UHS may designate either Dr. Conti or Dr. Hal Singer to opine that Cephalon’s Provigil maintained a monopoly in the relevant market. Should UHS designate Dr. Conti as the expert on the subject of Cephalon’s market power, Mylan and Ranbaxy may each take Dr. Conti’s deposition on solely this topic for four hours of questioning (eight hours total), at a time and place convenient to Defendants.

2. The testimony of Dr. Alessandra Barazza is not excluded. Ranbaxy may take a single deposition of Dr. Barazza, of no more than six hours, at a time and place convenient to Ranbaxy.
3. The testimony of Thomas Hoxie is not excluded. Ranbaxy may take a single deposition of Mr. Hoxie, of no more than six hours, on solely the portion of his expert report pertaining to the reasonableness of the modafinil IP license issued by Ranbaxy to Cephalon. The deposition will occur at a time and place convenient to Ranbaxy. Ranbaxy's experts, Mr. Berneman and Dr. Bell, may amend their reports to address only this topic, and UHS will not be permitted to take any further discovery on these amended reports.
4. The testimony of Dr. Scott Hemphill is not excluded. Mylan and Ranbaxy may take Dr. Hemphill's deposition for four hours of questioning each (eight hours total), at a time and place convenient to Defendants. Mylan and Ranbaxy may amend their expert reports, but solely to respond to this opinion. UHS will not be permitted to take any further discovery on these amendments.
5. The testimony of Jack Tupman is not excluded.
6. None of these rulings shall preclude Defendants from seeking to exclude the foregoing experts on Daubert or any other grounds.
7. UHS is reminded that, at trial, it will likely not be permitted to present multiple expert witnesses on the same issue.

It is further **ORDERED** that at the July 17, 2019 mediation conference, the parties shall be prepared to discuss potential trial dates and trial scheduling.

**BY THE COURT:**

*/s/ Mitchell S. Goldberg*

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**MITCHELL S. GOLDBERG, J.**